



TENNESSEE

Real Estate Appraiser Report

Real Estate Appraiser Commission

Tennessee Department of Commerce & Insurance

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Chairman's Report

WHAT'S YOUR OPINION?
By Robert L. Sain, Chairman

The purpose of the real estate appraiser licensing and certification qualifications, as adopted by the Appraiser Qualifications Board (AQB) and administered by the state licensing agencies, is to assure that minimum qualifications protect the public from incompetent practice. These qualifications also must not be used to unduly restrict entry into the real property appraisal practice for individuals who have developed appropriate knowledge, skills, and experience. The AQB recognizes these concerns and the delicate balancing of interest in these criteria revisions.

Keeping these considerations in mind, the AQB has exposed proposed changes to the "Property Appraiser Qualification Criteria". Several of the more substantial proposed changes include:

? Raising the qualifying education requirement for Licensed Residential Appraisers to 140 hours.

? Raising the qualifying education requirement for Certified Residential Appraisers to 200 hours.

? Raising the qualifying education requirement for Certified General Appraisers to 315 hours.

? Adding a required core curriculum for each licensure level.

? A requirement that individuals seeking the Certified General credential be required to have a four-year bachelor's degree or meet other specific education requirements in lieu of a degree.

? A requirement that individuals seeking the Certified Residential credential be required to have a two-year associates degree or meet other educational requirements in lieu of a degree.

? Allowing Certified Appraisers to gain four (4) hours of continuing education for supervising and managing Trainee Appraisers.

It should be noted that these changes would be adopted in late 2002 and the states would not be required to implement the changes before 2006.

This first exposure period ended on April 30, 2002. However, after carefully considering the written and oral comments, the AQB will publish at least one more exposure draft on this issue in late spring. We will try and keep you informed of further comments and would like to hear from you on these and other issues.

USPAP Q&A

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. The ASB USPAP Q&A is issued to inform appraisers, regulators, and users of appraisal services of the ASB responses to questions raised by regulators and individuals; to illustrate the applicability of the Uniform Standards of Professional Appraisal Practice (USPAP) in specific situations; and to offer advice from the ASB for the resolution of appraisal issues and problems.

Question:

Were any changes made to the Standards Rules addressing certifications (SR 2-3, 3-2(f), 5-3, 6-8, 8-3, and 10-3) for the 2002 edition of USPAP?

Response:

Yes. As part of the updating of STANDARD 6 the certification requirements for a mass appraisal assignment were modified. Standards Rule 6-8 now requires a certification that is virtually identical to the certification required for other types of assignments. The only difference is the discipline-specific reference to professional assistance. There were no other changes to the certification requirements for real property, personal property or business valuation assignments.

Question:

My state law requires an appraiser to retain workfiles for three years after the valuation date. Is this an example of Jurisdictional Exception?

Response:

No. Jurisdictional Exception is defined in USPAP as *an assignment condition that voids the force of a part or parts of USPAP, when compliance with part or parts of USPAP is contrary to law or public policy applicable to the assignment*. In the scenario described, complying with the Record Keeping section of the ETHICS RULE would exceed the requirements of the law, but it would not be contrary to the law. By retaining access to workfiles for the longer period required by USPAP the appraiser would also be in compliance with the law. Therefore, this would not be a Jurisdictional Exception.

Question:

My state appraisal board has adopted a regulation requiring appraisers to provide a five-year sales history for the subject property in all assignments. Is this situation addressed in USPAP?

Response:

Yes. USPAP defines Supplemental Standards as *requirements issued by government agencies, government sponsored enterprises, or other entities that establish public policy which add to the purpose, intent or content of the requirements of USPAP, that have a material effect on the development and reporting of assignment results*. In the scenario described, an entity that establishes public policy has a requirement that adds to the requirements in USPAP. Therefore, failure to comply with the regulation would represent a violation of the SUPPLEMENTAL STANDARDS RULE.

Question:

I was recently told that USPAP allows appraisers to wait and create a workfile after the report has been delivered to the client for an appraisal, appraisal review, or appraisal consulting assignment. Is this true?

Response:

No. The Record Keeping section of the ETHICS RULE states: *A workfile must be in existence prior to and contemporaneous with the issuance of a written or oral report. A written*

summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report. (Bold added for emphasis) It is advisable to create a workfile as soon as an agreement between an appraiser and a client results in an assignment.

Question:

I am a state certified appraiser and was recently asked by a client to perform a "condition and marketability report". A value conclusion is not requested as part of the assignment; however, I must sign the report as an appraiser. Is this assignment covered by USPAP?

Response:

Yes. Since the condition and marketability of a property directly pertains to its value, this is a valuation service. Furthermore, because you are being asked to perform the service **as an appraiser**, the assignment involves appraisal practice. USPAP defines appraisal practice as: *valuation services, including but not limited to appraisal, appraisal review, or appraisal consulting, performed by an individual as an appraiser*. Comment: *Appraisal practice is provided only by appraisers, while valuation services are provided by a variety of professionals and others. The terms appraisal, appraisal review, and appraisal consulting are intentionally generic and are not mutually exclusive. For example, an opinion of value may be required as part of an appraisal review and is required as a component of the analysis in an appraisal consulting assignment. The use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to the Uniform Standards of Professional Appraisal Practice.* (Bold added for emphasis) Appraisers who provide appraisal practice services for which there are no specific performance standards should comply with the portions of USPAP that still apply generally to appraisal practice. These include the PREAMBLE; the Conduct, Management, and Confidentiality sections of the ETHICS RULE; the

COMPETENCY RULE; the JURISDICTIONAL EXCEPTION RULE; and the SUPPLEMENTAL STANDARDS RULE. (See AO-21 for further advice).

Question:

I am appraising a property that will require a Discounted Cash Flow (DCF). Are there any special requirements in USPAP for this?

Response:

Yes. STATEMENT NO. 2 (SMT-2) contains a number of requirements related to performing a DCF. The following outlines the conclusions at the end of this Statement:

DCF analysis is an additional tool available to the appraiser and is best applied in developing value opinions in the context of one or more other approaches.

- *It is the responsibility of the appraiser to ensure that the controlling input is consistent with market evidence and prevailing market attitudes.*

- *Market value DCF analyses should be supported by market-derived data, and the assumptions should be both market- and property-specific.*

- *If using commercial software the appraiser should cite the name and version of the software and provide a brief description of the methods and assumptions inherent in the software.*

- *DCF accounts for and reflects those items and forces that affect the revenue, expenses, and ultimate earning capacity of real estate and represents a forecast of events that would be considered likely within a specific market.*

- *The results of DCF analysis should be tested and checked for errors and reasonableness.*

- Standards Rule 1-1(b) states that the appraiser must not commit a substantial error of omission or commission that significantly affects the appraisal. Since Statements have the full weight of a Standards Rule, their requirements are binding and must be adhered to.

Question:

I have been taught that USPAP prohibits all contingent compensation. Is this true?

Response:

No. USPAP does not prohibit all forms of contingent compensation. USPAP prohibits compensation that is contingent (or dependent) on an

unethical act, or acts that would encourage unethical behavior. All fees are contingent on some type of act, such as completing the assignment. Only unethical contingencies are prohibited. The Conduct section of the ETHICS RULE states, in part: *In appraisal practice, an appraiser must not perform as an advocate for any part or issue...An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions* The Management section states, in part: *It is unethical for an appraiser to accept compensation for performing an assignment when it is contingent upon:*

1. the reporting of a predetermined results (e.g., opinion of value);
2. a direction in assignment results that favors the cause of the client;
3. the amount of a value opinion;
4. the attainment of a stipulated result; or
5. the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment purpose

Question :

STATEMENT 8, dealing with the electronic transmission of reports, has been retired. Can reports still be stored in electronic format?

Response:

Yes, reports may still be stored in electronic format. STATEMENT 8 dealt with **transmission**, not with record **storage**. Hence, the retirement of SMT-8 does not affect record keeping requirements. (Also, note that the retirement of SMT-8 does **not** indicate that electronic transmission of reports is no longer allowed.)

Question :

I recently accepted an appraisal assignment for a property that had an easement granted in perpetuity. The property owner was the client. She did not have a copy of the easement and stated that it had never been recorded. What are my development and reporting obligations under USPAP?

Response:

First, you should do what research is possible to see if the easement was recorded and reflect the facts you discover in your analysis. If you cannot confirm the facts, you may use an Extraordinary Assumption in your

analysis. The particulars of the Extraordinary Assumption, and its impact on value, must be clearly disclosed. The definition of an Extraordinary Assumption is: *an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions.* **Comment:** *Extraordinary Assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in the analysis.* [Bold added for emphasis] Standards Rule 2-1(c) states, in part: *Each written or oral real property appraisal report must: (c) clearly and accurately disclose any extraordinary assumption, hypothetical condition, or limited condition that directly affects the appraisal and indicate its impact on value.* The Comment to this Standards Rule states, in part: *In a written report the disclosure is required in conjunction with statements of each opinion or conclusion that is affected.*

New Commission Member Richard Evans

Governor Don Sundquist has appointed an educator member to the Commission.

Richard D. Evans, Professor of Economics, has served at the University of Memphis since 1978. His doctorate degree was granted by the University of Missouri. In addition to economic theory courses, he teaches real estate appraisal, real estate investment, real estate finance, business economics, and forecasting.

His wife, Carolyn, teaches four-year-olds at Our Lady of Perpetual Help in Germantown. Daughters are Beverly, a college student, and Carrie, who does bond transactions at First Tennessee.

As a researcher, Richard Evans publishes in such academic and professional periodicals as the Journal of Real Estate Research, the Journal of Real Estate Economics, Business Perspectives, Mortgage Banking, and the Wall Street Journal.

Grants through the University of Memphis Bureau of Business and Economic Research fund part of his salary. He is Director of Forecasting in a City of Memphis grant to study revenue, including property taxes and sales taxes. He also works to forecast Tennessee state revenue and U.S. macroeconomic conditions.

He serves as an occasional consultant with the Shelby County Tax Assessor, the Memphis Area Association of Realtors, Federal Express, and several Memphis-based financial institutions and businesses.

DISCIPLINARY ACTION



Tom Lewis, CR 1417

Knoxville, Tennessee

Violations:

T.C.A. 56-1-308(a),

T.C.A. 62-39-326(4)&(5),

Rule 255-5-.01

Agreed Order:

License suspension for period of sixty (60) days beginning January 1, 2002, Civil Penalty in the amount of \$4,000.00, and effective January 1, 2002, suspension of one (1) year from utilizing or hiring trainees after which time he will be required to seek approval from the Commission prior to hiring trainees.

Ann Baker, CR 677

Memphis, Tennessee

Violations:

T.C.A. 62-39-326(3)

Agreed Order:

License revoked.

Complaint Report for 2001 Calendar Year

COMPLAINTS RECEIVED	78
COMPLAINTS RESOLVED.....	60
LETTERS OF CAUTION ISSUED.....	4
LETTERS OF WARNING ISSUED.....	9
COMPLAINTS DISMISSED.....	12
CONSENT ORDERS ISSUED.....	4
COMPLAINTS CLOSED WITH NO ACTION	19
LICENSES SUSPENDED.....	1
CIVIL PENALTIES ISSUED.....	2
LICENSES REVOKED.....	1
APPRAISERS REQUIRING COURSES	8

Tennessee Real Estate Appraiser Commission
500 James Robertson Parkway
Suite 620
Nashville, TN 37243-1166

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and Insurance
Tennessee Real Estate Appraiser Report
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Estate Appraiser Commission.

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Chelsey Luke
Administrative Assistant RB1
Joyce Branham
Administrative Assistant RB1
Edith Johnson
Licensing Technician

**Commission Meeting Dates
for 2002**

June 10	Room 160
July 8	Room 160
August 12	Room 160
September 9	Room 640
October 14	Room 160
November 18	Room 640
December 9	Room 160



Unless otherwise noted, the Commission meetings are scheduled to be held at 500 James Robertson Parkway, Nashville, Tennessee. Meetings start at 9:00am. The public is invited to attend. Please call the Commission office to verify that the meeting will be held on the date scheduled.

"The Tennessee Department of Commerce and Insurance is committed to principles of equal opportunity, equal access, and affirmative action." Contact the EEO Coordinator or ADA Coordinator (615) 741-0481, for TDD (615) 741-7190

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COMMERCE AND INSURANCE
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